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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

8 Arizona Libertarian Party, et al.,

9
10 No. CV 16-1019-PHX-DGC

11 Plaintiffs,

12 **CASE MANAGEMENT ORDER**

13 v.

14 Michele Reagan,

15 Defendant.

16 The Court enters the following Case Management Order to govern the litigation in
17 this case:

18 1. Deadline for Initial Disclosures. Initial disclosures required by Federal
19 Rule of Civil Procedure 26(a) shall be exchanged no later than **July 26, 2016**.

20 2. Deadline for Joining Parties, Amending Pleadings, and Filing Supplemental
21 Pleadings. The deadline for joining parties, amending pleadings, and filing supplemental
22 pleadings is **60 days** from the date of this Order.

23 3. Discovery Limitations. Depositions shall be limited to four hours each,
24 except that 30(b)(6) depositions may take up to seven hours. Each side may propound up
25 to 10 interrogatories, including subparts, 10 requests for production of documents,
including subparts, and 10 requests for admissions, include subparts.

26 4. Fact Discovery. The deadline for completing fact discovery, including
27 discovery by subpoena, shall be **January 27, 2017**. To ensure compliance with this
28 deadline, the following rules shall apply:

1 a. Depositions: All depositions shall be scheduled to commence at
2 least **five working days** prior to the discovery deadline. A deposition commenced five
3 days prior to the deadline may continue up until the deadline, as necessary.

4 b. Written Discovery: All interrogatories, requests for production of
5 document, and requests for admissions shall be served at least **45 days** before the
6 discovery deadline.

7 c. The parties may mutually agree in writing, without Court approval,
8 to extend the time provided for discovery responses in Rules 33, 34, and 36 of the Federal
9 Rules of Civil Procedure. Such agreed-upon extensions, however, shall not alter or
10 extend the discovery deadlines set forth in this Order.

11 5. Expert Disclosures and Discovery.

12 a. Plaintiff(s) shall provide full and complete expert disclosures as
13 required by Rule 26(a)(2)(A)-(C) of the Federal Rules of Civil Procedure no later than
14 **October 21, 2016.**

15 b. Defendant(s) shall provide full and complete expert disclosures as
16 required by Rule 26(a)(2)(A)-(C) of the Federal Rules of Civil Procedure no later than
17 **November 23, 2016.**

18 c. Rebuttal expert disclosures, if any, shall be made no later than
19 **December 23, 2016.** Rebuttal experts shall be limited to responding to opinions stated
20 by initial experts.

21 d. Expert depositions shall be completed no later than **January 27,**
22 **2017.** As with fact witness depositions, expert depositions shall be scheduled to
23 commence at least five working days before the deadline.

24 e. Disclosures under Rule 26(a)(2)(A) must include the identities of
25 treating physicians and other witnesses who will provide testimony under Federal Rules
26 of Evidence 702, 703, or 705, but who are not required to provide expert reports under
27 Rule 26(a)(2)(B). Rule 26(a)(2)(C) disclosures are required for such witnesses on the
28 dates set forth above. Rule 26(a)(2)(C) disclosures must identify not only the subjects on

1 which the witness will testify, but must also provide a summary of the facts and opinions
 2 to which the expert will testify. The summary, although clearly not as detailed as a
 3 Rule 26(a)(2)(B) report, must be sufficiently detailed to provide fair notice of what the
 4 expert will say at trial.¹

5 f. As stated in the Advisory Committee Notes to Rule 26 (1993
 6 Amendments), expert reports under Rule 26(a)(2)(B) must set forth “the testimony the
 7 witness is expected to present during direct examination, together with the reasons
 8 therefor.” Full and complete disclosures of such testimony are required on the dates set
 9 forth above; absent extraordinary circumstances, parties will not be permitted to
 10 supplement expert reports after these dates. The Court notes, however, that it usually
 11 permits parties to present opinions of their experts that were elicited by opposing counsel
 12 during depositions of the experts. Counsel should depose experts with this fact in mind.

13 g. Each side shall be limited to one retained or specifically employed
 14 expert witness per issue.

15 6. Discovery Disputes.

16 a. The parties shall not file written discovery motions without leave of
 17 Court. If a discovery dispute arises, the parties promptly shall call the Court to request a
 18 telephone conference concerning the dispute. The Court will seek to resolve the dispute
 19 during the telephone conference, and may enter appropriate orders on the basis of the
 20 telephone conference. The Court may order written briefing if it does not resolve the
 21 dispute during the telephone conference.²

22 b. Parties shall not contact the Court concerning a discovery dispute

23 ¹ In *Goodman v. Staples The Office Superstore, LLC*, 644 F.3d 817 (9th Cir.
 24 2011), the Ninth Circuit held that “a treating physician is only exempt from Rule
 25 26(a)(2)(B)’s written report requirement to the extent that his opinions were formed
 26 during the course of treatment.” *Id.* at 826. Thus, for opinions formed outside the course
 27 of treatment, Rule 26(a)(2)(B) written reports are required. *Id.* For opinions formed
 28 during the course of treatment, Rule 26(a)(2)(C) disclosures will suffice.

2 ² The prohibition on “written discovery motions” includes any written materials
 delivered or faxed to the Court, including hand-delivered correspondence with
 attachments.

1 without first seeking to resolve the matter through personal consultation and sincere
2 effort as required by Local Rule of Civil Procedure 7.2(j). Any briefing ordered by the
3 Court shall also comply with Local Rule of Civil Procedure 7.2(j).

4 c. Absent extraordinary circumstances, the Court will not entertain fact
5 discovery disputes after the deadline for completion of fact discovery, and will not
6 entertain expert discovery disputes after the deadline for completion of expert discovery.

7 7. Dispositive Motions.

8 a. Dispositive motions shall be filed no later than **February 10, 2017**.
9 Such motions must comply in all respects with the Federal Rules of Civil Procedure and
10 the Local Rules.

11 b. No party shall file more than one motion for summary judgment
12 under Rule 56 of the Federal Rules of Civil Procedure unless permission is first obtained,
13 by joint telephone call, from the Court.

14 c. Statements of fact required by Local Rule of Civil Procedure 56.1
15 shall not exceed ten pages in length, exclusive of exhibits.

16 d. The parties shall not notice oral argument on any motion. Instead, a
17 party desiring oral argument shall place the words “Oral Argument Requested”
18 immediately below the title of the motion pursuant to Local Rule of Civil Procedure
19 7.2(f). The Court will issue an order scheduling oral argument as it deems appropriate.

20 8. Good Faith Settlement Talks. All parties and their counsel shall meet in
21 person and engage in good faith settlement talks no later than **December 2, 2016**. Upon
22 completion of such settlement talks, and in no event later than five working days after the
23 deadline set forth in the preceding sentence, the parties shall file with the Court a joint
24 report on settlement talks executed by or on behalf of all counsel. The report shall inform
25 the Court that good faith settlement talks have been held and shall report on the outcome
26 of such talks. The parties shall indicate whether assistance from the Court is needed in
27 seeking settlement of the case. The parties shall promptly notify the Court at any time
28 when settlement is reached during the course of this litigation.

1 9. The Deadlines Are Real. The parties are advised that the Court intends to
2 enforce the deadlines set forth in this Order, and should plan their litigation activities
3 accordingly. The parties are specifically informed that the Court will not, absent truly
4 unusual circumstances, extend the schedule in this case to accommodate settlement talks.

5 | 10. Briefing Requirements.

6 a. All memoranda filed with the Court shall comply with Local Rule of
7 Civil Procedure 7.1(b) requiring 13 point font in text and footnotes.

8 b. Citations in support of any assertion in the text shall be included in
9 the text, not in footnotes.

11. Pre-motion Conference.

11 The Court will hold a conference with the parties before motions for summary
12 judgment are filed. The purpose of the conference will be to narrow issues and focus the
13 briefing of any motions for summary judgment, and perhaps dispense with statements of
14 fact under Local Rule 56.1. The parties shall exchange two-page letters describing any
15 anticipated motions for summary judgment and responses, identifying the issues and
16 claims on which summary judgment will be sought and the basis for the motions and
17 response. The parties shall file these letters with the Court on or before **January 13,**
18 **2017**, and shall call the Court the same day to schedule a time for a pre-motion
19 conference.

20 12. Oral argument on dispositive motions shall be held on **April 21, 2017**, at
21 **3:00 p.m.**

22 Dated this 12th day of July, 2016.

Daniel G. Campbell

David G. Campbell
United States District Judge